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OFFICE OF PETITIONS

In re Application of :
Xian-Ming Zeng :
Application No. 10/646,363 : ON PETITION
Filed: 21 August, 2003 :
Att'y Docket No. NHC19586-USA :

This is a decision on the petition under 1.137(b),¹ filed on 24 November, 2004, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned on 30 March, 2004, for failure

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

to timely respond to the Notice to File Missing Parts of Nonprovisional Application mailed on 29 January, 2004, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 29 October, 2004.

Petitioner has submitted an executed declaration as well as the required fees.

As the five (5) month extension of time received on 24 November, 2004, was filed outside of the extendable period for reply to the Notice mailed on 29 January, 2004, this extension of time is unnecessary and will be refunded. The fee paid of \$2,080.00 will be credited to counsel's deposit account, No. 50-0943, as authorized on the fee transmittal sheet filed with the present petition.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions